



**MINUTES OF THE
MINNEHAHA COUNTY PLANNING COMMISSION
July 26th, 2021**

A meeting of the Planning Commission was held on July 26th, 2021 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Commissioners Bonnie Duffy, Becky Randall, Adam Mohrhauser, Ryan VanDerVliet, Mike Ralston, and Jeff Barth were present at the meeting.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Eric Bogue – States Attorney's Office

Bonnie Duffy chaired the meeting and called the Minnehaha County Planning Commission meeting to order at 7:32 p.m.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

Consent Agenda

Commissioner Duffy read each item of the consent agenda, and no items were requested to be moved to the regular agenda.

A motion was made to approve the consent agenda consisting of Items 1, 2, 3, 4, and 5 by Commissioner Ralston and seconded by Commissioner Mohrhauser. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

ITEM 1. Approval of Minutes – June 28th, 2021

As part of the consent agenda, a motion was made by Commissioner Ralston and seconded by Commissioner Mohrhauser to approve the meeting minutes from June 28th, 2021. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.



ITEM 2. CONDITIONAL USE PERMIT #21-53 to exceed 3,600 square feet of accessory building space (requesting 6,392 square feet) on the property legally described as Tract 13 Indian Hills Estates N½ 8-101-48 Split Rock Township

Petitioner: Zach Porter

Property Owner: Don Bonenberger

Location: 2216 N Indian Hills Trail, approximately 2 miles southwest of Brandon

Staff Report: Mason Steffen

General Information:

Legal Description – Tract 13 Indian Hills Estates N½ 8-101-48 Split Rock Township

Present Zoning – A1 Agriculture

Existing Land Use – Residential Acreage

Parcel Size – 10 Acres

Staff Report: Mason Steffen

Staff Analysis: The subject property is located approximately 2 miles southwest of Brandon, a ½ mile east of the intersection of Six Mile Road and Maple Street. The petitioner is requesting conditional use permit approval to allow 6,392 square feet of total accessory building space. There is already a 30'x 40' detached garage on the property as well as a small 16'x 12' storage shed. The proposed accessory building will be used as a personal shop for the storage of vehicles and equipment, and no commercial use or storage will be allowed in the building. The accessory building will be 50'x 100' and will be placed on the northwest side of the property.

On July 9th, 2021, staff conducted a site visit of the proposed site for the accessory building. The site for the proposed accessory building is screened from the road and surrounding properties by rows of trees to the north and west. The properties to the east and west of the subject property both have received conditional use permits to exceed accessory building space. The property to the east was approved for a 50' x 66' accessory building in 2005. Directly north of the subject property a neighbor has a 36'x 48' horse barn and a 30'x 50' accessory building. The placement of this accessory building on the subject property will conform to the general development plan for the area, and should not cause any nuisance to surrounding properties.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

There should be no anticipated negative effect upon the use and enjoyment of the residential properties in the immediate vicinity. Property values in the area should also not be negatively impacted due to the personal use of the proposed accessory building.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The proposed site of the accessory building is located in an area surrounded by other similar residential acreages and farmland. There should be no anticipated impacts to the normal and



orderly development and improvement of the surrounding vacant farmland or residential acreages. The proposed size of the accessory building is generally compatible with other residential properties in the immediate vicinity.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The petitioner will be required to extend all required utilities to the structure. The proposed accessory building will be accessed by the existing driveway for the single-family dwelling on the property. The addition of an accessory building should not have any negative effects on the drainage of the surrounding area.

4) That the off-street parking and loading requirements are met.

The proposed site of the accessory building is large enough to accommodate the off-street parking requirement. The new accessory building will also add additional parking and storage to the property.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No commercial business or storage will be allowed in the proposed accessory building at any time. Any public nuisance violations will be addressed upon the Planning Department receiving a complaint about the subject property. All outdoor lighting will need to be directed downward onto the property. Lighting must be designed to be fully-shielded and fully-cutoff to prevent light pollution off site.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The health, safety, and general welfare of the public will not be negatively affected by the construction of the proposed accessory building. The proposed use will fit within the uses of other properties in the rural area.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-53 with the following conditions:

- 1) The building location shall adhere to the submitted site plan.
- 2) The total area of all accessory buildings may not exceed 6,392 square feet.
- 3) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4) That only personal storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5) That all outdoor lighting shall be of a fully-cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6) That a building permit is required prior to construction of the accessory building.
- 7) That the Planning & Zoning Department reserves the right to enter and inspect the accessory building at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.



Action

As part of the Consent agenda, a motion was made to approve Conditional Use Permit #21-53 with staff recommend conditions by Commissioner Ralston and seconded by Commission Mohrhauser. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-53 – Approved

ITEM 3. CONDITIONAL USE PERMIT #21-54 to transfer one (1) building eligibility from Tract 1 Siemonsma addition in Lot 2 SW¼ 18-103-48 Edison Township to Tract 1 Lathrop addition SE¼ 13-103-49 Sverdrup Township

Petitioner: Bennett Lathrop
Property Owner: Same
Location: 5 miles southeast of Baltic
Staff Report: Mason Steffen

General Information:

Legal Description – Tract 1 Siemonsma Addition in Lot 2 SW¼ 18-103-48 Edison Township to Tract 1 Lathrop addition SE¼ 13-103-49 Sverdrup Township
Present Zoning – A1 Agriculture
Existing Land Use – Residential Acreage
Parcel Size – 10 Acres

Staff Report: Mason Steffen

Staff Analysis: On July 9th, 2021, staff conducted a site visit of the sending and receiving parcels for the proposed building eligibility transfer. The property is located approximately 5 miles southeast of Baltic at the intersection of 253rd Street and County Highway 121 (478th Avenue). The sending parcel for the building eligibility is directly south of an existing Beef Cattle CAFO (Concentrated Animal Feeding Operation). Moving the building eligibility to the proposed receiving parcel will move any future dwelling unit farther away from the existing CAFO. The current land use of the sending parcel is cropland, and the current land use of the receiving parcel is vacant land. Portions of both the sending and receiving parcels are within the floodplain of Slip Up Creek. However, the location on the receiving parcel that is already serviced with a driveway is not within the floodplain, so any future dwellings in this location will not be within the floodplain.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

Moving the building eligibility farther away from an existing CAFO will result in better enjoyment and use of any future dwellings and the existing CAFO. A right-to-farm notice covenant should be required in order to notify the owner of the realities of being located in an agricultural area. The proposed receiving parcel will also be located adjacent to another residential acreage. The additional residential use will not significantly affect the surrounding properties.



2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The transfer of a building eligibility does increase the number of building eligibilities in the quarter section, but the sending parcel is productive cropland and the receiving parcel is vacant acreage. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The proposed receiving parcel is already serviced with a driveway onto County Highway 121. The petitioner will be required to obtain all necessary utilities for the property. A single-family dwelling will have minimal effect on drainage in the area.

4) That the off-street parking and loading requirements are met.

Two off-street parking spaces are required for a single-family residence. The off-street parking requirement will be met once a single-family dwelling is constructed.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

Single-family dwellings do not typically create odor, fumes, dust, noise, or vibration. The property will have to comply with the public nuisance ordinance.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed conditional use will have no effect on the health, safety and general welfare of the public. Placing this building eligibility in the proposed location will move the future dwelling away from an existing CAFO, off of productive cropland, and adjacent to an existing residential dwelling.

Recommendation: Staff finds this conditional use permit request to be consistent with density zoning and the comprehensive plan. Staff recommends **approval** of Conditional Use Permit #21-54 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.

Action

As part of the Consent agenda, a motion was made to approve Conditional Use Permit #21-54 with staff recommend conditions by Commissioner Ralston and seconded by Commission Mohrhauser. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-54 – Approved



ITEM 4. REZONING #21-02 to rezone from the A-1 Agricultural District to the I-1 Light Industrial District on the property legally described as BJM addition S1/2 34-102-47 & N1/2 03-101-47 Lot 4 Red Rock Township

Petitioner: Viktor Sushchik

Property Owner: Same

Location: Approximately 1/8 mile west of the intersection of County Highway 138 and 488th Avenue, North of Valley Springs

Staff Report: Kevin Hoekman

General Information:

Legal Description – BJM addition S1/2 34-102-47 & N1/2 03-101-47 Lot 4 Red Rock Township

Present Zoning – A-1 Agricultural District

Existing Land Use – Vacant Acreage

Parcel Size – 4.20 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The petitioner is requesting to rezone the subject property from the A-1 Agricultural District to the I-1 Light Industrial District. The subject property is located northeast of the City of Valley Springs. Currently, the property is vacant with no residential building eligibilities. All the surrounding properties to the west and south have been annexed into the City of Valley Springs, and they those properties have industrial related land uses. Immediately to the east is a property with a single-family dwelling with the architectural style known as a “house” or a “barndominium.” The parcel to the north of the subject property consists of cropland and is zoned as A-1 Agricultural District. Staff has some concern regarding an industrial zoned property located adjacent to a single-family residence. Conditions cannot be placed on a rezoning request, but the petitioner can be encouraged to plant screening trees along the east and north sides of his property.

The petitioner plans to have a trucking company and warehousing on the property. A trucking and warehousing company is allowed as a permissive special use as long as the building does not exceed 20,000 square feet, there is no storage of regulated substances, and the is no outside storage. The petitioner must be aware of these requirements and if any one of them is not able to be met, then a conditional use permit must be obtained. A building permit is required for all structures on the property. Commercial and industrial structures generally require engineered plans with architectural design review to ensure that the building meets the currently adopted building code.

All rezoning requests should be reviewed for how it fits into the comprehensive plan for growth in the county. This property is not located within typical rural service areas where the comprehensive plan encourages growth; however, the location of the property adjacent to a county highway and adjacent to other industrial properties makes this request an appropriate use of the land. Planning



staff contacted the City of Valley Springs regarding the request and received no comments for or against the proposed rezoning.

Recommendation:

Staff recommends **approval** of Rezoning #21-02.

Action

As part of the Consent agenda, a motion was made to recommend approval of Rezoning #21-02 by Commissioner Ralston and seconded by Commission Mohrhauser. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Rezoning #21-02 – Approval Recommended

ITEM 5. CONDITIONAL USE PERMIT #21-55 to make one (1) building eligibility available on the property legally described as W $\frac{1}{2}$ SW $\frac{1}{4}$ (Ex Bundes Ad) 18-103-50 Lyons Township

Petitioner: Terry Bunde

Property Owner: Same

Location: Approximately 1 mile west of Lyons

Staff Report: Mason Steffen

General Information:

Legal Description – W $\frac{1}{2}$ SW $\frac{1}{4}$ (Ex. Bundes Ad.) 18-103-50 Lyons Township

Present Zoning – A1 Agriculture

Existing Land Use – Cropland

Parcel Size – 69.35 Acres

Staff Report: Mason Steffen

Staff Analysis: On July 9th, 2021, staff conducted a site visit of the subject property where the building eligibility would be made available. The property is located approximately 1 mile west of Lyons at the intersection of 466th Avenue and 253rd Street. The petitioner is requesting the building eligibility be made available through a conditional use permit. The petitioner will be moving the building eligibility from the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 to the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 18 all in Lyons Township. The proposed location of the dwelling utilizing this building eligibility will move the building eligibility off of productive cropland and onto vacant land next to an existing dwelling. Moving this building eligibility to the proposed location should have no impact on the development of surrounding farmland, or on the agricultural production of the area.



Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The area surrounding the building eligibility is primarily agricultural with a few scattered residential uses. The proposed dwelling will be located adjacent to another residential acreage. The additional residential use will not significantly affect the surrounding properties.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The surrounding area is primarily agricultural land with a few residential acreages. The agricultural use will likely remain predominant in the area for the foreseeable future. The transfer of a building eligibility does not increase the number of dwelling units allowed in this section. The siting of a building eligibility in this location would have little to no effect on the orderly development of the surrounding properties.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The proposed property is located along a township road for primary access. The petitioner will have to obtain permission from Lyons Township for the driveway access onto 466th Avenue prior to being issued a building permit for a single-family dwelling. The petitioner will be required to supply all necessary utilities to the property. A single-family dwelling will have minimal effect on the drainage of the area.

4) That the off-street parking and loading requirements are met.

Two off-street parking spaces are required for a single-family residence. The off-street parking requirement will be met once a single-family dwelling is constructed.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

Single-family dwellings do not typically create odor, fumes, dust, noise, or vibration. The property will have to comply with the public nuisance ordinance.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

Making this building eligibility available will have no effect on the health, safety, and general welfare of the public. The proposed location of the building eligibility will move the building eligibility away from the flood plain, off of productive cropland, and next to an existing residential dwelling.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-55 with the following conditions:

- 1) A right-to-farm notice covenant shall be placed on the deed prior to the issuance of a building permit for a single-family dwelling.
- 2) That any applicable driveway permits be obtained from Lyons Township prior to the issuance of a building permit.



Action

As part of the Consent agenda, a motion was made to approve Conditional Use Permit #21-55 with staff recommend conditions by Commissioner Ralston and seconded by Commission Mohrhauser. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit#21-55 – Approved

ITEM 6. CONDITIONAL USE PERMIT #21-51 to allow a Public Utility Facility (Water Tower) on the property legally described as Water Tower Addition #2 SW1/4 15-102-52 Humboldt Township

Petitioner: Minnehaha Community Water Corp.

Property Owner: Same

Location: SW of 259th Street and NE of I-90, approximately ½ mile SE of Humboldt

Staff Report: Scott Anderson

General Information:

Legal Description – Water Tower Addition #2 SW1/4 15-102-52 Humboldt Township

Present Zoning – A1 Agriculture

Existing Land Use – Vacant Cropland

Parcel Size – 1.04 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is zoned A-1 Agricultural District. Article 3.04(W) of the Zoning Ordinance allows a water tower as a Conditional Use in this zoning district as a public utility structure.

On July 7, 2021, staff conducted a site visit. The surrounding land uses reflect primarily an agricultural use. The subject property is located approximately 1 mile south of Humboldt near the intersection of 259th Street and Interstate 90. There is one residence located approximately ½ mile to the east of the proposed water tower site.

The Minnehaha Community Water is proposing to construct a 180-foot-tall water tower. The water tower will hold 250,000 gallons of water. The new tower is being co-located next to an existing water tower. The new water tower will be 40 feet higher to improve the pressure in the Humboldt area. The water tower will be a composite style, which is concrete on the pedestal with a painted steel bowl. There will be a locking door at the bottom with no exterior steps or ladders. The applicant has indicated that construction on the water tower will start in the fall of 2021 and finish approximately 1 year later. It will be blue in color with a logo that says “Quality on Tap” on the west side of the bowl. It will be lit with upward facing lights with a light on top for aircraft. The applicant has indicated that no security fence will be used at this site.



Conditional Use Permit Criteria

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

Due to the existing residential development pattern and agricultural uses within the area, the proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. There is an existing tower located to the southeast of the proposed tower.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The proposed water tower is part of a community water system that will aid in providing an adequate water system to the present and future development for the general community.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the proposed water tower will be provided by 259th Street. The site plan indicates that a new approach will be constructed. The new approach will have to be approved by Humboldt Township and constructed meeting their requirements. It appears that the site utilizes natural drainage. The proposed water tower has access to water and no wastewater facilities will be provided.

4) That the off-street parking and loading requirements are met.

Article 15 of the Zoning Ordinance does not specifically identify the parking requirements for a water tower. The applicant has indicated that two (2) off street parking spaces will be provided. A water tower typically does not generate any significant amounts of traffic. The applicant has indicated that staff will only be on site once a month to obtain a water sample and inspect the tower. Each parking space should measure a minimum of 9 feet by 18 feet and be continually maintained in such a manner that no dust will result from continuous use. The two spaces will meet the parking requirements.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed Conditional Use Permit may generate very limited dust and noise. The water tower will be providing a benefit to the community. With appropriate conditions of approval, any concerns can be mitigated.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed use will benefit the health and safety of the public by allowing for the construction of a facility that will provide potable water to the Minnehaha Community water system.

Staff's review indicates that the proposed Conditional Use is a use which is appropriate for this site. Staff recommends approval of Conditional Use Permit #21-51 to be established and conducted in conformity with the Zoning Ordinance and the recommended conditions of approval.



Recommendation: Staff recommends **approval** of Conditional Use Permit #21-51 to allow a water tower in the Agricultural District with the following conditions:

- 1) That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty-two square feet, or nine feet by eighteen feet, and maintained in such a manner that no dust will result from continuous use.
- 2) That all existing drainage is maintained and that erosion control measures are implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
- 3) That the applicant obtains a building permit prior to any construction commencing on the site.
- 4) That the applicants obtain approval from the Humboldt Township for the new approach.
- 5) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Scott Anderson, of county planning staff, presented a brief explanation of the staff report and recommendation.

The petitioner/owner Scott Bus, executive director of Minnehaha Community Water, was present for questions. The petitioner stated that the purpose of the new water tower is to help the city of Humboldt and dairy farms in the area, and the new tower will be taller than the existing tower in order to increase water pressure.

Commissioner Barth asked if the petitioner was going to keep the old water tower once the new tower is complete. The petitioner explained that they have been looking to sell it to the big dairy farm south of Humboldt. The also asked the city of Humboldt if they would buy it, and the petitioner believes they will be building their own water tower.

Commissioner Ralston commented that the water tower would benefit the community, and since it would be going near an existing water tower the approval of this request is straightforward.

Action

Commissioner Ralston motioned to approve Conditional Use Permit #21-51, and the motion was seconded Commissioner Barth. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-51 – Approved



ITEM 7. CONDITIONAL USE PERMIT #21-52 to allow a Public Utility Facility (Water Tower) on the property legally described as MCWC Tract 1 Addition S1/2 NW1/4 5-101-48 Split Rock Township

Petitioner: Minnehaha Community Water Corp.

Property Owner: Same

Location: 750' N of E Callies Pl., East side of 6-Mile Road; approximately ¾ mile SW of Brandon

Staff Report: Scott Anderson

General Information:

Legal Description – MCWC Tract 1 Addition S1/2 NW1/4 5-101-48 Split Rock Township

Present Zoning – A1 Agriculture

Existing Land Use – Vacant Cropland

Parcel Size – 1.03 Acres

Staff Report: Scott Anderson

Staff Analysis: The property is zoned A-1 Agricultural District. Article 3.04(W) of the Zoning Ordinance allows a water tower as a Conditional Use in this zoning district as a public utility structure.

On July 7, 2021, staff conducted a site visit. The surrounding land uses reflect primarily an agricultural use. The subject property is located approximately 1 mile west of the Brandon corporate limits, approximately 1 mile south of the intersection of Holly Boulevard (East Rice Street in Sioux Falls) and Six Mile Road. There are three residences located adjacent to proposed water tower site and a cluster of approximately 10 residences located along East Callies Place.

The Minnehaha Community Water is proposing to construct a 152-foot-tall water tower. The water tower will hold 750,000 gallons of water. The growth of the surrounding area, specifically the southeast part of the county, necessitated the need for a continued reliable water system and expansion of capacity. The proposed water tower is being constructed to fill that need and will be part of the Minnehaha Community water system. The water tower will be a composite style, which is concrete on the pedestal with a painted steel bowl. There will be a locking door at the bottom with no exterior steps or ladders. The applicant has indicated that construction on the water tower will start in the fall of 2021 and finish approximately 1 year later. It will be blue in color with a logo that says “Quality on Tap” on the west side of the bowl. It will be lit with upward facing lights with a light on top for aircraft. The applicant has indicated that a security fence will surround the water tower.



Conditional Use Permit Criteria

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

Due to the existing residential development pattern and agricultural uses within the area, the proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The water tower will insure adequate water to present and future development for the region. A water tower was approved near the intersection of Rice and Holly in 2017 for the City of Brandon (CUP #17-48).

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The proposed water tower should not have a negative effect upon the normal and orderly development and improvement of these properties for uses predominant in the area. The proposed water tower is part of a community water system that will aid in providing an adequate water system to the present and future development for the general community.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

Access to the proposed water tower will be provided by Six Mile Road, which is part of the County Highway system. A new approach will be constructed to the site. The new approach will have to be approved by the County Highway Department and constructed meeting their requirements. It appears that the site utilizes natural drainage. The proposed water tower has access to water and no wastewater facilities will be provided.

4) That the off-street parking and loading requirements are met.

Article 15 of the Zoning Ordinance does not specifically identify the parking requirements for a water tower. The applicant has indicated that two (2) off street parking spaces will be provided. A water tower typically does not generate any significant amounts of traffic. The applicant has indicated that staff will only be on site once a month to obtain a water sample and inspect the tower. Each parking space should measure a minimum of 9 feet by 18 feet and be continually maintained in such a manner that no dust will result from continuous use. The two spaces will meet the parking requirements.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The proposed Conditional Use Permit may generate very limited dust and noise. The water tower will be providing a benefit to the community. With appropriate conditions of approval, any concerns can be mitigated.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed use will benefit the health and safety of the public by allowing for the construction of a facility that will provide potable water to the Minnehaha Community water system.

Staff's review indicates that the proposed Conditional Use is a use which is appropriate for this site. Staff recommends approval of Conditional Use Permit #21-52 to be established and conducted in conformity with the Zoning Ordinance and the recommended conditions of approval.



Recommendation: Staff recommends **approval** of Conditional Use Permit #21-52 to allow a water tower in the Agricultural District with the following conditions:

- 1) That a minimum of two (2) off-street parking spaces be provided and that each parking space shall not be less than one hundred sixty-two square feet, or nine feet by eighteen feet, and maintained in such a manner that no dust will result from continuous use.
- 2) That all existing drainage is maintained and that erosion control measures are implemented on all disturbed areas so as not to allow any sedimentation of existing drainage ways or bodies of water.
- 3) That a minimum 6-foot-tall security fence be installed and maintained around the base of the water tower.
- 4) That the applicant obtains a building permit prior to any construction commencing on the site.
- 5) That the applicants obtain approval from the County Highway Department for the new approach.
- 6) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Public Testimony

Scott Anderson, of county planning staff, presented a brief explanation of the staff report and recommendation.

The petitioner/owner Scott Bus, Minnehaha Community Water Executive Director, was presented for questions. The petitioner explained that this area is one of the largest used areas in the county, and the new tower will allow MCWC to take advantage of the new one-million-gallon allocation from the Lewis & Clark reservoir. He further explained that the existing tower one mile to the west is no longer big enough to support the growth in the area. The petitioner then explain that the subject property was chosen because of its elevation, and that water pressure within their system is determined by the height of the water tower and the water level within the tower. Also, the property is within close proximity to their existing 12-inch piping that is fundamental to their system. Finally, the petitioner explained that during their engineering study they found that every foot of elevation lost cost them \$10,000.

Commissioner Barth asked if the existing water tower was at a higher elevation than the proposed new water tower. The petitioner stated that he did not know the elevation but the difference would be made up in the height of the tank and water level within it.

Darrin Tille, of 3103 N Six Mile Road, came to the podium to address the commission with prepared remarks. As a degreed mechanical engineer, he understands MCWC's reasoning for placing the water tower at this location, but feels that no considered was given to the residences around the proposed location. Mr. Tille explained that he had talked to both Commissioner Barth and Scott Bus earlier this year about opposing the water tower, and suggesting alternative locations. Mr. Tille then suggested that the tower be shifted to the south, so that the water tower would be



across from pasture and not a residential property. He also explained that the piping cost to the new location would cost \$50,000 less, and no new driveway would be needed at the newly proposed location. Also, Mr. Tille explained that there would only be a nine-foot elevation difference between the two locations, which equates to only 4 less psi within the system. Finally, he states that these costs should outweigh the costs it would take to regrade the location at the lower elevation or to make the tower taller.

Leslee Duncan, of 3000 N Six Mile Road, came to the podium to address the commission. She stated that she has lived at the property directly south of the proposed water tower for thirty years. Mrs. Duncan also explained that here property has a great view of the valley that would be cut off by the proposed fence around the water tower.

Monte Albertson, of 2901 N Six Mile Road, came to the podium to address the commission. Mr. Albertson stated that water towers are ugly and the proposed water tower will hurt property values. He also stated that MCWC could move the tower inland away from the road and residences, or closer to the old water tower's location.

Commissioner Duffy asked the petitioner if there were any other options for the location of the water tower. Scott Bus explained that the six-foot fence would wrap around away from the property line to the south in order to prevent blocking the view of this property. Also, they looked at all the locations in the area and the location of the existing water tower is not feasible because the concrete pillar foundation could not be used for the new water tower. Also, he explained that moving the water tower to the south and losing that nine feet of elevation would cost them \$80,000 to \$90,000 because they would have to make that up in the height of the water tower.

Commissioner Barth asked how tall the water tower is going to be. Scott Bus stated that it will be 152 feet tall and that the water tower by Humboldt will be taller.

Commissioner Randall asked how much elevation is lost if they moved the tower to the north. The petitioner explained that the elevation drops all the way down to Rice Street, and the farmers of the land were not willing to farm around the tower. He further explained that creating a new access point onto Six Mile Road was an issue, and the proposed site will utilize an existing field approach that will be widened and shared by the farmer and MCWC. Commissioner Barth commented that change is going to happen, especially as Minnehaha County continues to grow. He also commented that as a landowner you own your land, but you do not own the view from your land. In addition, he explained that he appreciates the concern of neighbors, but that people all across the county live next to water towers.

Action

Commissioner VanDerVliet motioned to approve Conditional Use Permit #21-52, and the motioned was seconded by Commissioner Mohrhauser. The motion passed with 3 votes in favor of the motion and 2 votes against the motion. Commissioners Mohrhauser, VanDerVliet, and Randall voted in favor of the motion, and Commissioners Ralston and Barth voted against the motion.

Conditional Use Permit #21-52 – Approved



ITEM 8. CONDITIONAL USE PERMIT #21-56 to allow an Agricultural Operation (Lime Wholesale) on the property legally described as the S1/2 SW1/4 (Ex. H-1 & Ex. Gacke's Addition) 3-102-49 Mapleton Township

Petitioner: Mark Gacke

Property Owner: Same

Location: Approximately 1/2-mile North of Renner at the intersection of SD Highway 115 and 257th Street

Staff Report: Kevin Hoekman

General Information:

Legal Description – S1/2 SW1/4 (Ex. H-1 & Ex. Gacke's Addition) 3-102-49 Mapleton Township

Existing Land Use – Agricultural Land

Parcel Size – 73.78 acres

Staff Report: Kevin Hoekman

Staff Analysis:

This request is a result of code enforcement action. Several neighbors called the Planning Department about multiple dozens of trucks hauling in lime and dumping piles on the property. The large quantity of lime is greater that can be used on the land owned by the petitioner, and staff informed the petitioner that a conditional use permit is required for the operations to continue. The petitioner is requesting to allow an agricultural related operation which stores, dries, and transports agricultural lime on the above described property. An agricultural related operation involving the handling, storage, and shipping of farm products is allowed with an approved conditional use permit.

Staff Note: The petitioner is not selling this product for agricultural use, he is managing it for delivery to agricultural producers as a disposal method of the lime for the City of Sioux Falls. Therefore, the description of the land use as Lime Wholesale is incorrect.

The lime which will be stockpiled is a byproduct of water softening treatment for Sioux Falls. The applicant explains in the narrative that the stock pile will allow the lime to dry for easier spreading on agricultural fields. As a water treatment, lime reduces the molecules which cause hard water and it also reduces microorganisms and organic matter. Insects and rodents are not attracted to lime because of the high pH balance. As an agricultural product, the lime is used to decrease the acidity of soils to allow for better nutrient uptake by the plants.

The subject property is located one mile north of the Renner Corner, and the driveway is located ½ mile east of the highway on 257th Street. The petitioner describes in the submitted narrative that the operation will stockpile agricultural lime from the Sioux Falls water treatment plant to allow time for the product to dry. The product will be shipped into and out of the site with side dump semi-trucks. The hours of operation are listed as 7:00 am to 5:30 pm with longer range in the fall during harvest to 6:30 am to 7:00 pm.



The petitioner has submitted a basic site plan to depict how the operation will be processed on the parcel. The driveway to the stockpile will be located about ½ mile east of SD Highway 115. The working area follows the east property line and approximately 470 feet north of the right-of-way, 165 feet south of the property line with Cedar Ridge Pl., and roughly adjacent to the east property line. The lack of setback from the east property line is not a problem for the agricultural field, however a minimum setback should be established from the residential acreage to the southeast of the site. The setback should be similar to the distance from the properties to the north of the site. Based on the site plan a required setback of 165 feet from the north property line and from the property located at 47554 257th Street would leave space for stockpiling with reasonable setbacks.

Planning staff contacted Don Ahlschlager of Mapleton Township to discuss any township concerns. Don explained that the township has concerns about the many trucks coming in to deposit lime and which will go out to deliver lime to customers elsewhere. Planning staff recommends that a haul road agreement be made and maintained with Mapleton Township to maintain 257th street from SD Hwy 115 to the driveway of the operation.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The subject property is a large agricultural property surrounded by other agricultural and approximately 20 residential properties. The site plan shows the stockpiling as far away from the highway as possible. Setbacks will reduce some sightline concerns, and staff recommends a restriction of the stockpile height to 6 feet to reduce sightline concerns and higher elevation to pick up winds. Truck traffic will increase for the ½ mile of 257th Street. The added truck traffic will increase dust from the road. Staff recommends that dust control be completed by the applicant in a manner approved by Mapleton Township. Since traffic will be seasonal with heavier traffic during and after harvest, dust control application will best be applied before heavy traffic seasons.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The future development of the area will likely remain similar to its current state of a mix of agricultural and residential uses. Several residential building sites are available to the south and north of the proposed lime stockpile operation. The same setbacks, height restrictions, and dust control will also help with future potential problems with development. The area of land used to a stockpile lime should also be limited in order to prevent the stockpile from growing to encompass a very large area of the nearly 80-acre parcel. The site plan shows a stockpile area of 5.1 acres with the driveway. Staff suggests that the stockpile area be limited in size to the 5 acres requested. This will also prevent a stockpile from getting larger if not enough users for the lime product are found to use all that is brought onto the property.

3) That utilities, access roads, drainage and/or other necessary facilities are provided.

The driveway is located approximately ½ mile east of SD Hwy 115. The increased traffic on a long distance of gravel will likely cause increased dust from the road usage. Mapleton township and



county planning staff recommend a haul road agreement be required for maintenance and dust control of the road.

The applicant is not proposing any changes to the drainage of the property. Contour lines indicate drainage off the stockpile will largely flow north of the property. A small amount of runoff water may flow west. Runoff from lime piles may increase the pH levels of nearby water bodies. Staff contacted the DNR regarding state requirements for lime storage. No permits are required to store lime outside; however, it was suggested that steps be taken to reduce runoff potential into waters of the state. Staff suggests berms or settling basins are constructed to contain storm-water to prevent excess lime from accumulating downstream. A certified engineer should design and supervise the construction of these water control basins.

4) That the off-street parking and loading requirements are met.

The property will not have typical parking needs as a place to stockpile sludge lime. No loading and unloading are allowed in the street or anywhere outside of the designated area.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

Staff has already commented on dust control for the road. The stockpile will not create odor noise, vibration, or lighting which could cause a nuisance to neighbors. Dust control on the gravel road will reduce dust from the added traffic as well as from the traffic of those who drive on the road for residential use.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The applicant is proposing to stockpile a byproduct of municipal water treatment. The lime has served a beneficial use to treat the water, and will be turned into a beneficial agricultural product. Public health, safety, and general welfare will not be negatively affected by the proposed use.

Recommendation: Staff recommends **approval** of Conditional Use Permit #21-56 with the following conditions:

- 1.) This Conditional Use Permit is to allow the stockpile, processing, and shipping of only water treatment lime for agricultural purposes. No wastewater lime, fertilizers, or other products shall be stored or stockpiled on the property at any time.
- 2.) All stockpiles shall be a minimum of 165 feet away from the property lines of any residential used property.
- 3.) The area used for stockpiling lime products shall not exceed 5 acres in size.
- 4.) Stockpiles shall not exceed 6 feet in height from the natural ground.
- 5.) A Best Management Practice structure must be constructed for the purpose of reducing sediments from the lime from flowing downstream. The structure must be designed by a Certified Engineer, and the engineer must oversee construction. Construction of the Best Management Practice structure must be completed on or before July 31, 2022.



- 6.) A haul road agreement must be obtained with Mapleton Township on or before September 15th, 2021. The haul road agreement must be maintained while the operation exists on the property.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the property at any time, after proper notice, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.

Public Testimony

Kevin Hoekman, of county planning staff, presented a brief explanation of the staff report and recommendation.

Commissioner Barth asked where the condition for dust control was located in the staff report. Kevin explained that this would be a part of condition six in the haul road agreement between the petitioner and Mapleton Township.

Mark Gacke, of 942 E 4th Street in Canton, was present and available for questions. The petitioner explained that he works with the city to remove lime from their water treatment plant. The subject property would be used to store and dry out the lime, so that he could distribute the lime to farmers with much lower moisture content.

Commissioner Barth asked if farmers incorporate the lime into the fields or if they just spread the lime over the fields. The petitioner explained that incorporating the lime is a better process, but if applied on top of the soil, snow and rain will soak it into the soil because it is fine particle.

Commissioner Mohrhauser asked how much hauling would occur on the road every day. The petitioner explained that they would be taking about 30 loads a day into the field. He also explained that the inbound hauling would be heavier than the outbound hauling. Commissioner Mohrhauser then asked how long it takes to dry out. The petitioner stated that it takes about one month to dry out the lime before it can be shipped out to farmers.

Commissioner Barth asked if side dumpers would be hauling in the lime or regular dump trucks. The petitioner stated that they use side dumpers in order to drop off the lime. Commissioner Barth asked what loads the side dumpers off-site. The petitioner stated that they use payloaders in order to load the lime into the side dumpers.

Mike Dossett, of 47554 257th Street, came to the podium to address the commission. Mr. Dossett explained that he was one of the properties that had complained about the operation, and that there were probably already a hundred loads of lime on the property. He also explained that the trucks used to off load the lime are making a mess of the road and causing dust to kick up on his property. In addition, he explained that the roads already degrade substantially in the spring and fall, and this operation will only make it worse to drive cars on. The neighbor then stated that he believes this is a commercial business and not an agriculture business because the petitioner is not a farmer, and he believes it does not fit with the surrounding properties. Mr. Dossett also expressed his concern about when the lime dries and the fine lime powder starts to blow with the wind. He then explained



that he believes it will devalue his property because of the noise and other issues involved. Finally, he stated that he is concerned that the operation will be expanded passed the 5-acre stockpile if the request is allowed.

Matt Star, of 47511 Cedar Ridge Place, came to the podium to address the commission. He explained that he just recently built a new home north of the subject property, and if he would have known that sewage lime would be allowed next to his home he never would have built there. He also expressed his concerns about the degradation of the roads, and stated that he believes the hours of operation will not be followed which will cause noise and nuisance to surrounding properties.

Randy Clark, of 47515 Cedar Ridge Place, came to podium to address the commission. He explained that he also just built a new house in November of 2020, and that he does not want to be a neighbor to this operation because it will devalue his property.

Darla Ling, of 47301 Rogness Place, came to the podium to address the commission. She explained that she owns one of the residential properties to the south of the subject property, and that they bought the property because it fit all of there needs. In addition, she stated that she works in the real estate industry, and she believes that property values will be greatly affected by the proximity to this operation. Finally, she commented that she was also concerned about the dust from the road and lime powder once it dried.

Chris Rans, of 47543 257th Street, came to the podium to address the commission. He also expressed his concerns about the degradation of the road. In addition, he stated that when the trucks initially brought in the lime there were small spillage piles on the road in front of his property. He then expressed his concerns about the health and property risks that can be caused by an exposure to lime. Finally, he was concerned about the trucks driving at fast speeds while his children are waiting to be picked up by the bus for school.

Dawn Moore, of 15722 Longvale Dr. in Houston, TX, came to podium to address the commission. She explained that she owns one of the properties south of the subject property, and that she was notified of the meeting by a fellow neighbor. Mrs. Moore expressed several concerns including the nature of the lime when dry, degradation of the roads, and the fact that she believes this operation is commercial and not agricultural.

Brian Vanwell, of 47525 257th Street, came to the podium to address the commission. Mr. Vanwell expressed his concerns about the dust created from the trucks, and the wind in the area that will blow the lime once it is dry. He also stated that he is concerned that the stockpile area would expand if this request was allowed.

Dan Chmela, of 47509 257th Street, came to the podium to address the commission. Mr. Chmela stated that he is against the request because someone from outside the county is affecting his property. He also stated that if the request is not allowed he hopes the commission would make the petitioner clear the lime that is already on the property.



Leon Swenson, of 47569 257th Street, came to the podium to address the commission. He stated that he has lived on his property for fifty years, and in that time the road has been repaired several times due to underground water. Also, he expressed his concerns about property values, and asked the commission to reject the request.

Commissioner Barth asked the petitioner to address some of the concerns from the neighbors, specifically if the trucks would be parked there all the time. The petitioner explained that there may be a payloader temporarily on site when they are removing the lime, but the trucks would not be parked at the location. Mr. Gacke also explained that they would not be using the road when the frost and snow would be a concern. Commissioner Barth then asked if the dust was coming just from his driveway, or was the lime also blowing from his property. The petitioner stated that they would be watering his driveway in order to limit dust.

Commissioner Duffy asked if the petitioner had any other locations where the operation could take place. The petitioner stated that he talked to the city about using an area at the water treatment plant, but they did not have an area for him to use and he feels like he should be able to use his property.

Discussion

Commissioner Barth stated that almost every project that people object to is not because of the project, but because people want it to be happening somewhere else not by their properties. Also, he explained that agriculture is a heavy industry not a light industry, and that combines drive day and night in the fields making noise and producing dust. Commissioner Barth continued and stated he had visited the property that day and found the lime to be solid, and did not see it blowing around onto the surrounding area. He then expressed his concern about the area being transitional between residential and agriculture, but also stated that people complain about their property values no matter what. Next, he stated that he believes the motion should be approved, but he also thinks there should be a time limit on the operation. He explained that this would be similar to other limitations set on similar operations, such as gravel and mineral extraction. Finally, he stated that this would give the petitioner time to transition to a new location if the area around the current location is developed.

Commissioner Mohrhauser asked Commissioner Barth how long they should allow the operation to be permitted. Commissioner Barth stated that he thinks 5-10 years would be sufficient, and that gravel extraction has been given 10 years in the past.

Commissioner Mohrhauser stated that he would like dust control on the petitioner's driveway leading to the field. He continued to state that he would like to see the driveway graveled.

Commissioner Barth commented that he noticed 257th street had been treated off and on with dust suppressant when he visited the property. He also commented that the sale of combines and tractors on the property would also be considered agriculture related and not commercial.

Scott Anderson, of county planning staff, explained that the haul road agreement with Mapleton Township would only apply to 257th street, and if dust control is requested for the driveway that would need to be a condition of approval.



Commissioner Barth asked Scott what the condition would be in order to mandate dust control along the driveway. Scott explained that the commission could have the petitioner gravel the driveway and then have dust control applied to the gravel. Commissioner Mohrhauser then commented that he would like the driveway to be graveled all the way to the turnaround for the stockpile.

Commissioner Barth asked Kevin Hoekman how far it would be from 257th street to the turnaround on the property. Kevin explained that the property is ¼ mile deep off of 257th, and the turnaround is about half way up the driveway so it would be about 600 feet of gravel. Commissioner Mohrhauser commented that this would cost the petitioner some money, but it would be worth it for the neighbors. He then stated that he did not want the petitioner to just wet the dirt driveway down and then carry mud onto 257th street.

Commissioner Barth stated that they should add an eighth condition to the permit, which would require the gravelling and dust control of the petitioner's driveway.

Commissioner Barth continued to say that change is inevitable and this use may not fit in the area within 5-10 years. Commissioner Mohrhauser stated he believes five years is appropriate, and Commissioner VanDerVliet stated he thinks eight years would be more appropriate. Commissioner Ralston stated that he was okay with a five-year time limit, and that the petitioner could come back in five years to reevaluate if the operation still fits in the area.

Commissioner Ralston then asked Kevin Hoekman why the petitioner was given until July 31st, 2022 to put everything in place for the operation. Kevin explained that this was to give the petitioner time to find a contractor to do the required work.

Commissioner Barth then asked Commissioner Randall what she thought about the timeline issue. Commissioner Randall stated that she believes five years is an appropriate timeline. Commissioner Barth stated that a ninth condition would be added to the permit in order to limit the operation to five years.

Commissioner Randall commented that if the loads are going in at 30 loads per day according to the petitioner, and the site is already almost full with 100 loads according to the neighbors then that is only 3 days of heavy hauling. She additionally commented that she believes it will be busy for a few days while the lime is hauled in, and then there will not be much traffic until the lime dries and then it will be slightly busy again. Commissioner Barth commented that there are many more loads of corn and soybean that travel by these properties, and that township roads are built for agriculture. He further commented that this is why Minnehaha County is such a great producing county for agriculture.

Commissioner Barth asked if the other commissioners agreed with condition number nine, to limit the operation to five years, and the commissioners agreed.



Action

Commissioner Barth made a motion to **approve** Conditional Use Permit #21-56 with the nine conditions discussed. The motion was seconded by Commissioner VanDerVliet. The motion passed unanimously with 6 votes in favor of the motion and 0 votes against the motion.

Conditional Use Permit #21-56 – Approved with the following conditions:

- 1.) This Conditional Use Permit is to allow the stockpile, processing, and shipping of only water treatment lime for agricultural purposes. No wastewater lime, fertilizers, or other products shall be stored or stockpiled on the property at any time.
- 2.) All stockpiles shall be a minimum of 165 feet away from the property lines of any residential used property.
- 3.) The area used for stockpiling lime products shall not exceed 5 acres in size.
- 4.) Stockpiles shall not exceed 6 feet in height from the natural ground.
- 5.) A Best Management Practice structure must be constructed for the purpose of reducing sediments from the lime from flowing downstream. The structure must be designed by a Certified Engineer, and the engineer must oversee construction. Construction of the Best Management Practice structure must be completed on or before July 31, 2022.
- 6.) A haul road agreement must be obtained with Mapleton Township on or before September 15th, 2021. The haul road agreement must be maintained while the operation exists on the property.
- 7.) The Planning & Zoning Department reserves the right to enter and inspect the property at any time, after proper notice, to ensure that the property is in full compliance with the conditional use permit conditions of approval and Minnehaha County Zoning Ordinance.
- 8.) The petitioner is required to place gravel on 600 feet of his driveway starting from 257th Street, and is required to supply dust suppression on the gravel.
- 9.) This conditional use permit will expire on July 26th, 2026, and the petitioner will need to reapply for the operation to continue past this date.

Old Business

Scott Anderson stated that on Tuesday July 20th, 2021 the planning commission's decision on the Stockwell CAFO was appealed with the county commission. He further stated that the planning commission's decision to approve the CAFO was upheld by the county commission.

New Business

Scott Anderson explained to the commissioners that at the August 23rd meeting there will be a medical cannabis ordinance to vote on for the county.

Adjourn

A motion was made to adjourn by Commissioner Randall and seconded by Commissioner Barth. The motion was approved unanimously. The meeting was **adjourned** at 8:59 p.m.